

## **REMARKS**

The amendment to the specification corrects obvious errors of syntax and spelling. The amendment to the claims corrects the defects pointed out in the office action. Applicants submit that the amendment does not add any new matter to the disclosure.

Applicants have submitted a drawing correction to Figure 5A per the discussion above. Otherwise, applicants submit that the drawings do comply with 37CFR1.84(p)(4). The discussion of paragraph [0017], which explains the dual designation of items, and the discussion of the embodiments of figures 4 and 5 make clear that the numbering of drawings is referring to different overhang embodiments such that the same part of the invention appearing in more than one view of the drawing is designated by the same reference character, and the same reference character is not used to designate different parts. Applicants submit that the meaning of present reference numerals is clear when the drawings and specification are taken together and that alternative reference numeral schemes would decrease the clarity of the disclosure. On this basis, applicants respectfully request withdrawal of the objection to the drawings.

Applicants have corrected the specification to address the informality pointed out in the official action.

Applicants have amended the claims as suggested in the official action to correct the defects pointed out in the official action. Applicants submit that the claims are now in compliance with 35 USC 112, second paragraph.

The invention centers on structures that are especially useful in the formation of FinFET devices or other devices where erosion due to etch processes is problematic. The invention addresses the erosion problem by

creating an overhang and building a spacer under the overhang. Applicants reference to the term "overhang" is illustrated in Figures 4 and 5 of the present application where the overhang (40, 140) is shown.

Bryant (US 5512517) discloses a FET structure with a self-aligned sidewall spacer. Bryant does not create an overhang as that term is used in the present claims. Specifically, no portion of material 30 is overhanging, but rather the entire lower surface of material 30 is in contact with underlying material, i.e., in contact with gate poly 28 or gate oxide 26. Applicants submit that the reference to inherency in the official action regarding the limitation of present claim 6 is not well founded in as much as oxide spacer film 32 is deposited as a conformal coating. Thus, even if spacer film were to be further oxidized, it is not apparent that the result would be creation of an overhang. Thus, Bryant does not disclose or suggest creation of an overhang and forming a spacer under the overhang as required by the present method claims 1-18.

Bryant et al. (US 6960806) discloses a double gated vertical transistor with different first and second gate materials. Bryant et al. does not disclose or suggest any method wherein an overhang is formed, much less an overhang under which a spacer is subsequently formed. Thus, applicants submit that the combination of Bryant and Bryant et al. does not disclose or suggest the limitation of claims 4-5 and 14-18 where the creation of an overhang is required.

Kunikiyo (US Pub App 2002/0135041) discloses a method of forming an overhang in a trench in embodiment 2. Since Bryant (US 5512517) does not disclose or suggest the formation of an overhang or a trench, it is not apparent how the teaching of Kunikiyo would lead one of ordinary skill in the art to form an overhang by reflow in the method of Bryant. At best, the combination of these references would result in the use of BPSG for the oxide spacer film 32 of Bryant.

This, however, would still not result in the creation of the overhang required by the present claims, nor the forming of a spacer under the overhang.

Wu et al. (US 6770516) discloses a method of forming a FinFET with silicon nitride spacers. Wu et al. does not disclose or suggest the formation of overhangs, nor the formation of spacers under overhangs. Thus, in as much as neither Wu et al. or Bryant (US 5512517) contemplate the formation of overhangs, nor the formation of spacers under overhangs, applicants submit that the combination of Bryant (US 5512517) with Wu et al. would not result in a method involving the formation of overhangs, nor the formation of spacers under overhangs as required by the present claims.

For the above reasons, applicants submit that the pending claims are now patentable over the prior art of record and that the application is in condition for allowance. Such allowance is earnestly and respectfully solicited.

Respectfully submitted,  
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